

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STEWART GITTENS, JR.,  
Plaintiff,

**Index No. : 07 CIV 9871**

-against-

THE CITY OF NEW YORK, et al.,

**AFFIDAVIT OF SERVICE**

Defendants.

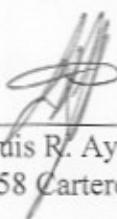
State of New York )  
                      )  
                      ) ss.:  
County of New York )

Luis R. Ayala, being duly sworn, deposes and says that the deponent is not a party to this action, is over the age of eighteen years, is an independent process server (license number 1024905), and resides in the State of New Jersey:

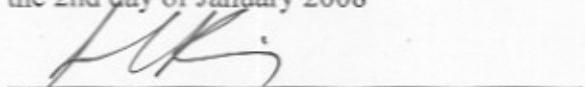
(1) That on the 19th day of December 2007 6:45 p.m., deponent served a Summons and Complaint in the above-captioned matter upon defendant Kenneth Fischer at his place of employment, NYPD, 47<sup>th</sup> Precinct, 4111 Laconia Ave., Bronx, NY 10466. The documents were received by a Police Officer with black hair and glasses, approximately 25 years old, 5'6" tall, 165 pounds. A police officer by the name of Padilla witnessed the service.

(2) That on the 2nd day of January 2008, deponent mailed a true copy of the Summons and Complaint to defendant Kenneth Fischer to the same address where he was served. The envelope was marked "Personal and Confidential" and without any indication that communication was from an attorney or concerned any action against the defendant. The

envelope was placed in a U.S. mailbox at the post office located at 6<sup>th</sup> Ave. and 23<sup>rd</sup> St., New York, NY.

  
Luis R. Ayala  
158 Carteret St., Glen Ridge, NJ 07028

Sworn to and Subscribed Before Me  
the 2nd day of January 2008

  
Notary Public

SUSAN C. BAILEY  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01BA6121503  
Qualified in New York County  
Commission Expires January 18, 2009

AO 440 (Rev. 8/01) Summons in a Civil Action

## UNITED STATES DISTRICT COURT

SOUTHERN

District of

NEW YORK

STEWART GITTENS, JR.

V.  
THE CITY OF NEW YORK, et al.

## SUMMONS IN A CIVIL ACTION

CASE NUMBER:

07 CIV 9871

JUDGE SWEET

TO: (Name and address of Defendant)

Kenneth Fischer  
1278 Sedgewick Avenue  
Bronx, New York 10452

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Michael L. Spiegel  
111 Broadway, Suite 1305  
New York, NY 10006

an answer to the complaint which is served on you with this summons, within twenty days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

NOV 07 2007

CLERK

*Ward Guittero*

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me <sup>(1)</sup>	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served:  <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left:  <input type="checkbox"/> Returned unexecuted:  <input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.		
Executed on _____	Date _____	<i>Signature of Server</i> _____
<i>Address of Server</i> _____		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.